

### **REMARKS**

Claims 1-5 are pending.

The Specification has been amended to correct the description of elements 23 and 24 of Fig. 2 to be a “three way valve” instead of a “three-way tube”.

Main claim 1 has been amended to be more specifically directed to the embodiment of the invention of Fig. 2 in which the incubator has a plurality of incubation spaces. The subject matter of claim 3 has been incorporated into claim 1 and claim 3 has been cancelled. In addition, claim 1 now recites that the measurement air sampling tube communicates with the inside of each of the plurality of incubation spaces respectively through a first multi-position valve (23 of Fig. 2). The measurement air return tube communicates with the inside of each of the plurality of incubation spaces respectively through a second multi-position valve (24 of Fig. 2). The CO<sub>2</sub> gas supply means has a third multi-position valve (9a, 9B of Fig. 2) to control the gas supplied to each incubation space. The control means operates to selectively control the CO<sub>2</sub> concentration in a selected one of said plurality of spaces.

Support for the above is found at line 26, page 12 to line 1, page 14 of the Specification.

Claim 3 and its dependent claim 4, and claim 5 were rejected under 35 U.S.C. 103(a) as being unpatentable over Swan et al, U.S. 5,090,617 or Vision Scientific (CO<sub>2</sub> Incubator Model VS-9108MS) as evidenced by Phillips et al. (IEEE Transactions) or Wheeler, et al. (IEEE), and taken further in view of Kobayashi, et al, JP 63-108262) alone or alternatively further in view of Dutton, et al, U.S. 4,701,415, as applied to claims 1 and 2 and taken further in view of Gross, et al., U.S. 5,149,654.

As to Gross, the incubation chamber is divided into many compartments (spaces of the claims), but the CO<sub>2</sub> gas concentration and temperature in each compartment is not controlled independently. As to the other references, Swan and Kobayashi, each have only one incubation chamber. Phillips and Wheeler only show the PID control method.

Accordingly, the combination of references alone or in any combination do not teach the novel features of the invention in which there can be selective individual control of the CO<sub>2</sub>

concentration of each of a plurality of spaces in an incubation chamber while still maintaining all of the other advantages of the invention, i.e., making the CO<sub>2</sub> concentration of the air reserve more uniform in each space so that the degree of the CO<sub>2</sub> concentration in each space can be made more accurate on a selective basis for each space of the incubator. Therefore, claim 1 and its dependent claims are patentable and should be allowed.

Claim 2 recites that the CO<sub>2</sub> gas concentration detection means is an infra-red sensor. This has the further advantage in that the sensing will not be influenced by the CO<sub>2</sub> gas concentration and the humidity. This provides a further basis for the allowability of claim 2.

Accordingly, all of the claims of the application are patentable and the application should be allowed.

Prompt and favorable action is requested.

Dated: September 11, 2008

Respectfully submitted,

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